

12 August 1974

To: GLC      --For morning meeting--

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Re: Outcome of my Conversation with Jim Kronfeld, Subcommittee on Foreign Operations and Government Information, House Government Operations Committee, concerning Conference action on the Freedom of Information Act (FOIA) amendments [H. R. 12471 (S. 2543, Kennedy bill)]:

1. Conferees did meet 6 August and resolved all of the tough questions except the one concerning "sanctions."
2. The (b)(3) (specifically exempted from disclosure by statute) exemption under FOIA will remain and not be merged with the (b)(1) exemption (executive order classification).
3. Moreover, Kronfeld says that although there is resistance among Senate staffers, he is on the verge of succeeding in inserting in the conference report language embracing Intelligence Sources and Methods (ISM) under the "born classified" concept. This means Restricted Data, Communications Intelligence, and ISM would be lumped together with the expectation that if such information ever became subject to a court review, the courts would recognize the absence of administrative discretion to classify in these areas. Legally, I believe this would give a presumption for the protection of ISM information--but, of course, the Agency would not be relieved of the burden of sustaining the presumption which I think reasonably could be limited in most cases to an appropriate affidavit from the Director.

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